

## **Update Sale of Purchaser Information Provisions**

§ 59.1-442. Sale of purchaser information; notice required.

No merchant, without giving notice to the purchaser, shall sell to any third person *personal* information which concerns the purchaser and which is gathered in connection with the sale, *license, lease, rental or exchange of* ~~tangible personal property~~ *consumer goods and services* to the purchaser ~~at the merchant's place of business~~. Notice required by this section may be *made* by the posting of a sign or any other reasonable method. If requested by a purchaser not to sell such *personal* information, the merchant shall not do so. No merchant shall sell any *personal* information gathered solely as the result of any customer payment by personal check, credit card, or where the merchant records the customer's driver's license number.

~~For the purposes of this section "merchant" means any person or entity engaged in the sale of goods from a fixed retail location in Virginia.~~

~~§ 59.1-443. Exceptions.~~

~~Section 59.1-442~~ *This section* shall not apply to: (i) information gathered for purposes of extending credit or the recording and sale, rental, exchange or disclosure to others of information obtained from any public body as defined in the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (ii) the sale of information concerning a check or credit card transaction when it is incidental to the sale or other disposition of accounts receivable; (iii) the furnishing by a merchant of information on check writing activity of its customers in conjunction with check validation transactions; or (iv) information sold in connection with any sale by a business of the business's retail operations at one or more locations, provided that the information is sold only to the purchasers thereof.

*C. For purposes of this section, "personal information" shall also include information regarding an individual's name, date of birth, home or business address, telephone number, occupation, salary or any other information unique or personal to the individual.*

*For the purposes of this section "merchant" means any person or entity engaged in the sale of goods from a fixed retail location in Virginia.*

§ 59.1-444. Damages.

A person aggrieved by a violation of this chapter shall be entitled to institute an action to recover damages in the amount of \$100 per violation. In addition, if the aggrieved party prevails, he may be awarded reasonable attorney's fees and court costs. Actions under this section shall be brought in the general district court for the city or county in which the transaction or other violation that gave rise to the action occurred.

§ 59.1-444. Damages; *Injunction*.

- A. A person aggrieved by a violation of this chapter shall be entitled to institute an action to recover damages in the amount of \$100 per violation, *or actual damages, whichever is greater.*
- B. ~~In addition, if~~ If the aggrieved party prevails, he may be awarded reasonable attorney's fees and court costs.
- C. *The provisions of this chapter may be enforced by injunction or any other available equitable or legal remedy.*
- D. Actions under this section shall be brought in the general district court for the city or county in which the transaction or other violation that gave rise to the action occurred.
- E. *The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.*